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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Rulemaking for purposes of revising General
Order 96-A regarding informal filings at the
Commission

R.98-07-038

Order Instituting Rulemaking on the
Commission's Own Motion to Assess and
Revise the Regulation of Telecommunications
Utilities

R.05-04-005

COMMENTS OF

**CALAVERAS TELEPHONE COMPANY (U 1004 C)
CAL-ORE TELEPHONE CO. (U 1006 C)
DUCOR TELEPHONE COMPANY (U 1007 C)
FORESTHILL TELEPHONE CO. (U 1009 C)
GLOBAL VALLEY NETWORKS, INC. (U 1008 C)
HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)
HORNITOS TELEPHONE COMPANY (U 1011 C)
KERMAN TELEPHONE CO. (U 1012 C)
PINNACLES TELEPHONE CO. (U 1013 C)
THE PONDEROSA TELEPHONE CO. (U 1014 C)
SIERRA TELEPHONE COMPANY, INC. (U 1016 C)
THE SISKIYOU TELEPHONE COMPANY (U 1017 C)
VOLCANO TELEPHONE COMPANY (U 1019 C)
WINTERHAVEN TELEPHONE COMPANY (U 1021 C)**

**ON PROPOSED DECISION
ADOPTING TELECOMMUNICATIONS INDUSTRY RULES
MAILED JULY 23, 2007**

E. Garth Black
Mark P. Schreiber
Sean P. Beatty
Patrick M. Rosvall
COOPER, WHITE & COOPER LLP
201 California Street, 17th Floor
San Francisco, California 94111
Telephone: (415) 433-1900
Facsimile: (415) 433-5530

Attorneys for the Small LECs

August 13, 2007

1 **I. INTRODUCTION.**

2 Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor
3 Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Global Valley Networks,
4 Inc. (U 1008 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company
5 (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The
6 Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou
7 Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), and Winterhaven
8 Telephone Company (U 1021 C) (the "Small LECs") hereby file their opening comments on the
9 proposed decision adopting telecommunications industry rules mailed on July 23, 2007 ("Telecom
10 Rules PD").

11 In comments filed earlier this year, the Small LECs recommended that most of their advice
12 letter filings should be placed in Tier One. The Telecom Rules PD does not accept this proposal.
13 The Small LECs will not repeat their arguments in favor of the Tier One approach, but only note
14 their disappointment that after nearly a decade of efforts to reform advice letter processing, the
15 Telecom Rules PD does not significantly change the framework that applied to the Small LECs in
16 1998 when this docket was opened. Given the history of advice letter filings by Small LECs
17 characterized by a lack of controversy, it is not clear what harm would result from granting the
18 Small LECs the discretion to designate their filings as Tier One. It is certainly the Commission's
19 prerogative to place significance on the fact that the Small LECs are cost of service regulated, but
20 the idea of streamlining filings, which could ultimately benefit end-users, is certainly not mutually
21 exclusive with the manner in which the Small LECs are regulated.

22 That said, the Small LECs have identified several other issues that should be addressed
23 before the Telecom Rules PD is adopted. Most significantly, Telecommunications Industry Rule
24 ("TIR") 8.3 addressing the introduction of new services imposes an unworkable cost study
25 requirement that will only serve to hurt customers. TIR 8.2.4 pertaining to contracts presents
26 similar issues. In addition, TIR 2 addressing the provision of directories to libraries must be
27 clarified. The effective date of advice letters filed under Tier 2 must also be clarified. Finally, the
28 Small LECs note miscellaneous drafting issues that should be cleaned up prior to the adoption of

1 the Telecom Rules PD.

2
3 **II. IMPOSING COSTING REQUIREMENTS ON GRC-LECS WILL HARM RURAL**
4 **CUSTOMERS.**

5 TIR 8.3 addresses the process for submitting advice letters that propose new service
6 offerings by GRC-LECs. New language appearing in TIR 8.3 for the first time provides that any
7 advice letter proposing a new service must demonstrate that the proposed rate for the new service
8 is at or above cost.¹ This language has never been vetted in the decade long history of this
9 proceeding; that it appears for the first time in a proposed decision seems procedurally improper.

10 Had this language been vetted prior to the Telecom Rules PD, the Small LEC would have
11 noted that all of their rates are set residually. The Small LECs rarely, if ever, undertake formal
12 cost studies to establish a rate for their services. The reason for this is that cost studies can cost
13 tens of thousands of dollars while the revenue that might be generated from a particular new
14 service offering will not cover the cost of such studies. If a cost study requirement is imposed on
15 GRC-LECs, then rural customers will be much less likely to enjoy the benefits of custom calling
16 services, for example, because the revenue from such new services will not come close to
17 recovering the cost to perform a cost study.

18 To correct this problem, the Small LECs recommend that the Commission delete the
19 language in TIR 8.3 which requires a cost showing to accompany every advice letter proposing a
20 new service. Instead of establishing a hard and fast rule, the Commission should remain silent in
21 the TIRs and allow GRC-LECs to work with staff to ensure that the rate proposed for a new
22 service is reasonable. To the extent the topic is addressed at all, the Commission should endorse a
23 GRC-LEC's reliance on the rates charged by other carriers for similar services as an indicia of the

24 _____
25 ¹ A similar restriction appears in TIR 8.2.4 which addresses contracts that deviate from tariff rates.
26 The new service scenario is much more significant to GRC-LECs, because they rarely deviate
27 from tariff through contracts, but more frequently introduce new services. It would be
28 appropriate, though, to modify TIR 8.2.4 in the same manner that modifications to TIR 8.3 are
made.

1 reasonableness of a proposed rate.

2
3 **III. THE COMMISSION SHOULD MODIFY TIR 2 TO SPECIFY THAT**
4 **DIRECTORIES NEED ONLY BE DELIVERED UPON REQUEST.**

5 TIR 2 requires GRC-LECs to provide without charge a copy of their current directories to
6 public libraries in California. The rule is ambiguous in that it does not specify that delivery of a
7 directory must only occur upon request of a particular library. Absent clarification, one could
8 interpret TIR 2 to require a carrier to provide a copy of its directory to the over 1,000 public
9 libraries in California. The Small LECs do not believe that outcome is intended. Furthermore, the
10 rule should be clarified to provide that only a single copy of a directory must be provided without
11 charge. To effect these clarifications, TIR 2 should be updated as follows:

12 Upon request, GRC-LECs and URF Carriers must provide without charge
13 a single copyies of their current directories to public libraries in California.
14

15 **IV. THE COMMISSION SHOULD CLARIFY THAT A TIER TWO FILING MAY**
16 **TAKE EFFECT WITHOUT ACTION BY THE STAFF.**

17 One of the common problems regarding the administration of advice letters is determining
18 the effectiveness of tariffs. GRC-LECs have historically relied upon the return of stamped tariff
19 pages or, more recently, an email from Commission staff to confirm that a tariff is effective.
20 However, uncertainty can develop if the staff communication is not received prior to the period in
21 which the tariff filing is deemed effective. One perceived objective of this proceeding was to give
22 carriers certainty that after a period of time following the filing of an advice letter, e.g., 30 days, a
23 tariff is in effect, even without receiving confirmation from staff. However, TIR 7.2 includes a
24 parenthetical stating that Tier Two filings are effective after staff approval. The reference to staff
25 approval suggests that some affirmative message from staff is required before a tariff can be
26 deemed effective. Because such affirmative approval does not appear to be the intent of the rules,
27 the Small LECs recommend that the Commission delete the parenthetical. The Small LECs
28 further recommend that TIR 7.2 reference General Rule 7.3.4 so that there is absolutely no

1 ambiguity as to the effective date for TIR Tier Two filings.

2
3 **V. MISCELLANEOUS CORRECTIONS TO THE TIRs.**

4 The Small LECs submit that the following additional changes should be considered prior
5 to adopting the TIRs attached to the Telecom Rules PD.

6 A. Definition and Use of "Transfer": TIR 1.13 defines "Transfer" to include a transfer
7 of assets. The Small LECs are concerned that including asset transfers in the definition may
8 sweep into the coverage of other rules more advice letter filings than necessary. For example, TIR
9 3 requires notice to customers when a "Transfer" is proposed. This rule would arguably require a
10 notice to customers if a GRC-LEC is proposing the sale of a parcel of land, a requirement which
11 does not exist today. TIR 3.1 would arguably require a carrier to notice customers that they have
12 the right to select a new service provider when the "Transfer" only pertains to that same sale of a
13 parcel of land.

14 On a related note, the Small LECs do not believe that the word "Transfer" in the last
15 sentence of TIR 3.2 should be capitalized. The defined term in TIR 1.13 is a noun; the word
16 "Transfer" in TIR 3.2 is being used as a verb. Used as a verb, the meaning of "transfer" is not that
17 as defined in TIR 1.13.

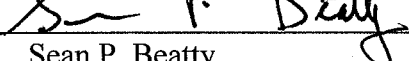
18 B. Treatment of Emergency Services: The Small LECs do not understand why URF
19 Carriers may offer service on an emergency basis through a Tier One filing, but GRC-LECs must
20 submit such emergency filings through Tier Three. The Small LECs recommend deleting TIR
21 7.3(8) and modifying TIR 7.1(12) to include GRC-LECs.

1 V. CONCLUSION.

2 Based on the foregoing, the Commission should revise the TIRs attached to the Telecom
3 Rules PD as discussed in these comments. Most importantly, the Commission should delete the
4 requirement to provide a cost study with an advice letter filing intended to establish a new service.

5
6 Dated this 13th day of August, 2007, at San Francisco, California.

7
8 E. Garth Black
9 Mark P. Schreiber
10 Sean P. Beatty
11 Patrick M. Rosvall
12 COOPER, WHITE & COOPER LLP
13 201 California Street, 17th Floor
14 San Francisco, CA 94111
15 Telephone: (415) 433-1900
16 Facsimile: (415) 433-5530

17
18
19
20
21
22
23
24
25
26
27
28
By: 
Sean P. Beatty
Attorneys for the Small LECs

1 CERTIFICATE OF SERVICE BY MAIL

2 I, Noel Gielegthem, declare:

3 I am a resident of the State of California, over the age of eighteen years, and not a party to the
4 within action. My business address is COOPER, WHITE & COOPER LLP, 201 California Street,
5 17th Floor, San Francisco, CA 94111.

6 On August 13, 2007, I served the

7
8 **COMMENTS OF**

9 **CALAVERAS TELEPHONE COMPANY (U 1004 C)**
10 **CAL-ORE TELEPHONE CO. (U 1006 C)**
11 **DUCOR TELEPHONE COMPANY (U 1007 C)**
12 **FORESTHILL TELEPHONE CO. (U 1009 C)**
13 **GLOBAL VALLEY NETWORKS, INC. (U 1008 C)**
14 **HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)**
15 **HORNITOS TELEPHONE COMPANY (U 1011 C)**
16 **KERMAN TELEPHONE CO. (U 1012 C)**
17 **PINNACLES TELEPHONE CO. (U 1013 C)**
18 **THE PONDEROSA TELEPHONE CO. (U 1014 C)**
19 **SIERRA TELEPHONE COMPANY, INC. (U 1016 C)**
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21 **VOLCANO TELEPHONE COMPANY (U 1019 C)**
22 **WINTERHAVEN TELEPHONE COMPANY (U 1021 C)**

23 **ON PROPOSED DECISION**
24 **ADOPTING TELECOMMUNICATIONS INDUSTRY RULES**
25 **MAILED JULY 23, 2007**

26 by sending via e-mail a searchable Adobe Acrobat PDF copy of this document to the parties on the
27 attached service list who provided e-mail addresses. Hard copies were also served on parties who did
28 not provide an e-mail address by placing a true and correct copy of these OPENING COMMENTS
with the firm's mailing room personnel, for mailing in accordance with the firm's ordinary practices.

Hard copies were also mailed to ALJ Steven Kotz and Assigned Commissioner Chong's
advisor Jane Whang.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 13, 2007, at San Francisco, California.

26 
27 _____
28 Noel Gielegthem

SERVICE LIST

CPUC Service List as of August 9, 2007 Proceeding Nos. R. 98-07-038 & R. 05-04-005 (consolidated)

ANDREW BROWN, ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95811

ALLEN S. HAMMOND, IV
PROFESSOR OF LAW
SANTA CLARA UNIVERSITY
SCHOOL OF LAW
500 EL CAMINO REAL
SANTA CLARA, CA 94305

ANDREW O. ISAR
DIRECTOR, INDUSTRY RELATIONS
TELECOMMUNICATIONS RESELLERS ASSN.
7901 SKANSIE AVE 240
GIG HARBOR, WA 98335

ANN JOHNSON
VERIZON
HQE02F61
600 HIDDEN RIDGE
IRVING, TX 75038

MARILYN H. ASH
U.S. TELEPACIFIC CORP.
620/630 3RD ST.
SAN FRANCISCO, CA 94107

ALLEN K. TRIAL, COUNSEL
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, HQ-12D
SAN DIEGO, CA 92101

WILLIAM NUSBAUM, ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

ADAM L. SHERR, ATTORNEY AT LAW
QWEST COMMUNICATIONS CORPORATION
1600 7TH AVENUE, 3206
SEATTLE, WA 98191-0000

ALEXANDRA HANSON
DIRECTOR PROVISIONING
01 COMMUNICATIONS, INC.
1515 K STREET, SUITE 100
SACRAMENTO, CA 95814

ANNA KAPETANAKOS, SENIOR COUNSEL
AT&T CALIFORNIA
525 MARKET STREET, ROOM 2024
SAN FRANCISCO, CA 94105

ANNA M. SANCHOU, GENERAL MANAGER -
NETWORK REGULATORY
SOUTHWESTERN BELL MESSAGING
SERVICES INC
5800 NW PARKWAY, STE. 125
SAN ANTONIO, TX 78249

ALOA STEVENS
FRONTIER, A CITIZENS
COMMUNICATIONS CO.
299 S MAIN ST STE 1700
SALT LAKE CITY, UT 84111-2279

BETSY STOVER GRANGER
PACIFIC BELL WIRELESS
4420 ROSEWOOD DRIVE, 4TH FLOOR
PLEASANTON, CA 94588

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE, RM 321
ROSEMEAD, CA 91770

ARTHUR D. LEVY
639 FRONT STREET, 4TH FLOOR
SAN FRANCISCO, CA 94111

ANN KIM, ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

ANITA C. TAFF-RICE, ATTORNEY AT LAW
1547 PALOS VERDES MALL, SUITE 298
WALNUT CREEK, CA 94597

MARILYN H. ASH
U.S. TELEPACIFIC CORP.
620/630 3RD ST.
SAN FRANCISCO, CA 94107

AARON THOMAS
AES NEWENERGY, INC.
350 S. GRAND AVENUE, SUITE 2950
LOS ANGELES, CA 90071

SCOTT BLAISING, ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET, STE. 1270
SACRAMENTO, CA 95814

CHARLES BORN, MANAGER, GOVERNMENT
& EXTERNAL AFFAIRS
FRONTIER COMMUNICATIONS
OF CALIFORNIA
9260 E. STOCKTON BLVD.
ELK GROVE, CA 95624

CHARLES E. BORN
MANAGER-STATE GOVERNMENT AFFAIRS
FRONTIER, A CITIZENS
TELECOMMUNICATIONS COMPANY
PO BOX 340
ELK GROVE, CA 95759

CHERRIE CONNER
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT &
IMPLEMENTATION BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CARL C. LOWER
UTILITY SPECIALISTS
717 LAW STREET
SAN DIEGO, CA 92109-2436

DAVID DISCHER, ATTORNEY AT LAW
PACIFIC BELL TELEPHONE COMPANY
525 MARKET STREET, RM. 2027
SAN FRANCISCO, CA 94105

SARAH DEYOUNG
EXECUTIVE DIRECTOR
CALTEL
50 CALIFORNIA STREET, SUITE 1500
SAN FRANCISCO, CA 94111

PETER M. DITO
KINDER MORGAN ENERGY PARTNERS
1100 TOWN AND COUNTRY ROAD
ORANGE, CA 92868

DON EACHUS
VERIZON CALIFORNIA, INC.
CA501LB
112 S. LAKE LINDERO CANYON ROAD
THOUSAND OAKS, CA 91362

DOUGLAS GARRETT
COX COMMUNICATIONS
2200 POWELL STREET, STE. 1035
EMERYVILLE, CA 94608

CHARLES H. CHRISTIANSEN
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT &
IMPLEMENTATION BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CHRIS BROWN, EXECUTIVE DIRECTOR
CALIFORNIA URBAN WATER
CONSERVATION
455 CAPITOL MAIL, SUITE 703
SACRAMENTO, CA 95814

CHRISTINE MAILLOUX, ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

DAVID A. SIMPSON
SIMPSON PARTNERS
900 FRONT STREET
SAN FRANCISCO, CA 94111

DAVID HADDOCK, DIRECTOR,
REGULATORY
01 COMMUNICATIONS, INC.
1515 K STREET, SUITE 100
SACRAMENTO, CA 95814

RICHARD B. LEE
SNAVELY KING & MAJOROS
O'CONNOR & LEE INC
1111 14TH STREET NW
WASHINGTON, DC 20005

DONALD H. MAYNOR, ATTORNEY AT LAW
235 CATALPA DRIVE
ATHERTON, CA 94027

DANIEL W. DOUGLASS, ATTORNEY AT LAW
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367

CHERYL HILLS
ICG COMMUNICATIONS, INC.
620 3RD ST
SAN FRANCISCO, CA 94107-1902

CARL K. OSHIRO
ATTORNEY AT LAW
CSBRT/CSBA
100 PINE STREET, SUITE 3110
SAN FRANCISCO, CA 94111

THOMAS HAMMOND
REAL TELEPHONE COMPANY
PO BOX 640410
SAN FRANCISCO, CA 94164-0410

DANILO E. SANCHEZ
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
ROOM 3200
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DIANE I. FELLMAN
FPL ENERGY PROJECT MANAGEMENT, INC.
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

DONALD J. LAFRENZ
CALIF PUBLIC UTILITIES COMMISSION
RATEMAKING BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DOUG GARRETT, SENIOR DIRECTOR,
GOVERNMENT AFFAIRS
ICG COMMUNICATIONS, INC.
180 GRAND AVENUE, STE 800
OAKLAND, CA 94612

DANIEL R. PAIGE
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
320 WEST 4TH STREET SUITE 500
LOS ANGELES, CA 90013

EDWARD B. GIESEKING
DIRECTOR/PRICING AND TARIFFS
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150

EMERY G. BORSODI, DIRECTOR RATES &
REG. RELATIONS
AT&T CALIFORNIA
525 MARKET ST., RM. 1921
SAN FRANCISCO, CA 94105

ESTHER NORTHRUP
COX CALIFORNIA TELCOM
5159 FEDERAL BLVD.
SAN DIEGO, CA 92105

FE N. LAZARO
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT &
IMPLEMENTATION BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

GREGORY T. DIAMOND
7901 LOWRY BLVD.
DENVER, CO 80230

GREGORY L. CASTLE, SENIOR ATTORNEY
AT&T CALIFORNIA
525 MARKET STREET, SUITE 2022
SAN FRANCISCO, CA 94105

RUDY SASTRA
CALIF PUBLIC UTILITIES COMMISSION
UTILITY & PAYPHONE ENFORCEMENT
AREA 2-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MARGARET L. TOBIAS
TOBIAS LAW OFFICE
460 PENNSYLVANIA AVENUE
SAN FRANCISCO, CA 94107

EDWARD W. O'NEILL, ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

ENRIQUE GALLARDO
LATINO ISSUES FORUM
160 PINE STREET, SUITE 700
SAN FRANCISCO, CA 94111

FASSIL T. FENIKILE
AT&T CALIFORNIA
525 MARKET STREET, ROOM 1925
SAN FRANCISCO, CA 94105

DONALD M. JOHNSON
CHIEF OPERATING OFFICER
FULL POWER CORPORATION
2130 WATERS EDGE DR.
WESTLAKE, OH 44135-6602

GWEN JOHNSON
C/O AT&T CALIFORNIA
525 MARKET STREET, 18TH FLOOR, 6
SAN FRANCISCO, CA 94105

GLENN SEMOW
CALIFORNIA CABLE & TELECOMM. ASSOC.
360 22ND STREET, STE. 750
OAKLAND, CA 94612

HARRY GILDEA
SNAVELY KING MAJOROS O'CONNOR
& LEE INC.
1111 14TH STREET NW
WASHINGTON, DC 20005

JACQUE LOPEZ, LEGAL ASSISTANT
VERIZON CALIFORNIA INC
CA501LB
112 LAKEVIEW CANYON ROAD
THOUSAND OAKS, CA 91362

ELAINE M. DUNCA
ATTORNEY AT LAW
VERIZON
711 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CA 94102

EARL NICHOLAS SELBY
ATTORNEY AT LAW
LAW OFFICES OF EARL NICHOLAS SELBY
418 FLORENCE STREET
PALO ALTO, CA 94301

FRED L. CURRY
CALIF PUBLIC UTILITIES COMMISSION
WATER ADVISORY BRANCH
ROOM 3106
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

GREG R. GIERCZAK
EXECUTIVE DIRECTOR
SURE WEST TELEPHONE
PO BOX 969
200 VERNON STREET
ROSEVILLE, CA 95678

GREGORY J. KOPTA
DAVIS WRIGHT TREMAINE, LLP
1201 THIRD AVENUE, SUITE 2200
SEATTLE, WA 98101-3045

HEIDI SIECK WILLIAMSON, DEPT OF
TELECOMMUNICATIONS & INFORMATION
CITY & COUNTY OF SAN FRANCISCO
875 STEVENSON STREET, 5TH FLOOR
SAN FRANCISCO, CA 94103

HELEN M. MICKIEWICZ
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5123
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JADINE LOUIE, REGULATORY SERVICES
SBC CALIFORNIA
ASSOCIATE DIRECTOR
525 MARKET ST., 19FL, 7
SAN FRANCISCO, CA 94105

JAMES YOUNG, GENERAL ATTORNEY &
ASSIST. GENERAL COUN
AT&T CALIFORNIA
525 MAKRETT STREET, SUITE 1904
SAN FRANCISCO, CA 94105

JACQUELINE A. REED
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE
LAW JUDGES
ROOM 5017
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JEANNE B. ARMSTRONG
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI RITCHIE
& DAY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

JERRY R. BLOOM, ATTORNEY AT LAW
WINSTON & STRAWN LLP
333 SOUTH GRAND AVENUE, 38TH FLOOR
LOS ANGELES, CA 90071-1543

JOSEPH CHICOINE, MANAGER,
GOVERNMENT & EXTERNAL AFFAIRS
9260 E. STOCKTON BLVD.
ELK GROVE, CA 95624

JANE DELAHANTY
U.S. TELEPACIFIC CORP.
515 S. FLOWER STREET, 47TH FLOOR
LOS ANGELES, CA 90071-2201

JEFF WIRTZFELD, REGULATORY CONTACT
QWEST COMMUNICATION CORPORATION
1801 CALIFORNIA STREET, SUITE 4700
DENVER, CO 80202

JESUS G. ROMAN, ATTORNEY AT LAW
VERIZON ACCESS TRANSMISSION SERVICES
112 S. LAKEVIEW CANYON ROAD, CA501LB
THOUSAND OAKS, CA 91362

JOHN E. THORSON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE
LAW JUDGES
ROOM 5112
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JAMES M. TOBIN, ESQUIRE
TWO EMBARCADERO CENTER, SUITE 1800
SAN FRANCISCO, CA 94111

JAMES SIMMONS
CALIF PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS
& CONSUMER ISSUES BRANCH
ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JANE WHANG
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5029
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JOHN R. GUTIERREZ
COMCAST PHONE OF CALIFORNIA, LLC
12647 ALCOSTA BLVD., SUITE 200
SAN RAMON, CA 94583

JOHN P. CLARKE
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MCB10C
SAN FRANCISCO, CA 94105

JUDY PECK
SEMPRA ENERGY UTILITIES
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

JOANN RICE, REGULATORY MANAGER
SBC LONG DISTANCE
5850 W. LAS POSITAS BLVD.
PLEASANTON, CA 94588

JAMES D. SQUERI, ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI
DAY & LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

GEORGE S. TAGNIPES
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

JOSEPH F. WIEDMAN, ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI
DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

KARIN M. HIETA
CALIF PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS
& CONSUMER ISSUES BRANCH
ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

KATHERINE K. MUDGE, ATTORNEY AT LAW
COVAD COMMUNICATIONS COMPANY
7000 NORTH MOPAC EXPRESSWAY
2ND FLOOR
AUSTIN, TX 78731

KELLY FAUL, SENIOR MANAGER
1111 SUNSET HILLS DRIVE
RESTON, VA 20190

KIM LOGUE, REGULATORY ANALYST
LCI INTERNATIONAL TELECOM CORP.
4250 N. FAIRFAX DRIVE, 12W002
ARLINGTON, VA 22203

KRISTIN L. JACOBSON
SPRINT NEXTEL
201 MISSION STREET, SUITE 1400
SAN FRANCISCO, CA 94102

LAURA E. GASSER
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

LEE-WHEI TAN
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT &
IMPLEMENTATION BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MICHAEL BROSCHE
UTILITECH INC.
740 NORTH BLUE PARKWAY, STE. 204
LEE'S SUMMIT, MO 64086

KATIE NELSON
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

WADE MCCARTNEY
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF STRATEGIC PLANNING
770 L STREET, SUITE 1050
SACRAMENTO, CA 95814

KARL BEMESDERFER
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW
JUDGES
ROOM 5006
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

STAFF COUNSEL
CONSUMER FEDERATION OF CALIFORNIA
520 EL CAMINO REAL, STE 340
SAN MATEO, CA 94402

LESLA LEHTONEN, VP LEGAL AND
REGULATORY AFFAIRS
CALIFORNIA CABLE & TELECOM
ASSOCIATION
360 22ND STREET, SUITE 750
OAKLAND, CA 94612

MARJORIE O. HERLTH
QWEST COMMUNICATIONS CORPORATION
1801 CALIFORNIA ST., SUITE 4700
DENVER, CO 80202

MICHAEL C. AMATO
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT &
IMPLEMENTATION BRANCH
ROOM 3203
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

R. KEENAN DAVIS, GENERAL COUNSEL
01 COMMUNICATIONS, INC.
1515 K STREET, SUITE 100
SACRAMENTO, CA 95814

KEVIN SAVILLE
ASSOCIATE GENERAL COUNSEL
CITIZENS/FRONTIER COMMUNICATIONS
2378 WILSHIRE BLVD.
MOUND, MN 55364

STEVEN KOTZ
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW
JUDGES
ROOM 2251
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ALEXIS K. WODTKE, STAFF ATTORNEY
CONSUMER FEDERATION OF CALIFORNIA
520 S. EL CAMINO REAL, STE. 340
SAN MATEO, CA 94402

LEON M. BLOOMFIELD, ATTORNEY AT LAW
WILSON & BLOOMFIELD, LLP
1901 HARRISON STREET, SUITE 1620
OAKLAND, CA 94612

MARK LYONS
SIMPSON PARTNERS LLP
SUITE 1800
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

MICHAEL D. MCNAMARA
CALIF PUBLIC UTILITIES COMMISSION
CARRIER BRANCH
ROOM 3207
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MICHAEL B. DAY, ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI
DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

MICHAEL A. BACKSTROM, ATTORNEY AT
LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

MICHELE F. JOY, GENERAL COUNSEL
ASSOCIATION OF OIL PIPE LINES
1101 VERMONT AVENUE N.W. STE 604
WASHINGTON, DC 20005-3521

MIKE MULKEY
ARRIVAL COMMUNICATIONS
1807 19TH STREET
BAKERSFIELD, CA 93301

MARGARET L. TOBIAS
MANDELL LAW GROUP, PC
THREE EMBARCADERO CENTER, SIXTH FL.
SAN FRANCISCO, CA 94111

NATALIE WALES
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

NANCY E. LUBAMERSKY, VICE PRESIDENT
U.S. TELEPACIFIC CORP.
620/630 3RD ST.
SAN FRANCISCO, CA 94107

NATALIE BILLINGSLEY
CALIF PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS & CONSUMER
ISSUES BRANCH
ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MICHEL PETER FLORIO, ATTORNEY AT LAW
THE UTILITY REFORM NETWORK (TURN)
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

MICHAEL D. SASSER, GENERAL ATTORNEY
PACIFIC BELL (AT&T CALIFORNIA)
525 MARKET ST., RM. 2021
SAN FRANCISCO, CA 94105

MONICA L. MCCRARY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5134
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MARIA POLITZER
CALIFORNIA CABLE & TELECOM
ASSOCIATION
360 22ND STREET, NO. 750
OAKLAND, CA 94612

MARY E. WAND, ATTORNEY AT LAW
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105

NEDYA CAMPBELL
AT&T CALIFORNIA
525 MARKET STREET, 19TH FLOOR
SAN FRANCISCO, CA 94105

NIKAYLA K. NAIL THOMAS
EXECUTIVE DIRECTOR
CALTEL
515 S. FLOWER STREET, 47/F
LOS ANGELES, CA 90071

PALLE JENSEN
DIRECTOR OF REGULATORY AFFAIRS
SAN JOSE WATER COMPANY
374 WEST SANTA CLARA STREET
SAN JOSE, CA 95196

MARCO GOMEZ, ATTORNEY AT LAW
S.F. BAY AREA RAPID TRANSIT
PO BOX 12688
OAKLAND, CA 94604-2688

MICHAEL R. ROMANO, ATTORNEY AT LAW
LEVEL 3 COMMUNICATIONS, LLC
2300 CORPORATE PARK DR. STE 600
HERNDON, VA 20171-4845

MARTIN A. MATTES, ATTORNEY AT LAW
NOSSAMAN, GUTHNER, KNOX
& ELLIOTT, LLP
50 CALIFORNIA STREET, 34TH FLOOR
SAN FRANCISCO, CA 94111-4799

MICHAEL SHAMES, ATTORNEY AT LAW
UTILITY CONSUMERS' ACTION NETWORK
3100 FIFTH AVENUE, SUITE B
SAN DIEGO, CA 92103

MARZIA ZAFAR
SAN DIEGO GAS & ELECTRIC/SOCAL GAS
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

NELSONYA CAUSBY, ATTORNEY AT LAW
AT&T CALIFORNIA
525 MARKET ST., STE 2025
SAN FRANCISCO, CA 94105

NORMAN A. PEDERSEN
ATTORNEY AT LAW
HANNA AND MORTON, LLP
444 SOUTH FLOWER STREET, NO. 1500
LOS ANGELES, CA 90071

PETER A. CASCIATO, ATTORNEY AT LAW
PETER A. CASCIATO P.C.
355 BRYANT STREET, SUITE 410
SAN FRANCISCO, CA 94107

PHILLIP ENIS
CALIF PUBLIC UTILITIES COMMISSION
CONSUMER ISSUES ANALYSIS BRANCH
ROOM 2101
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

PHUONG N. PHAM
MORRISON & FOERSTER
425 MARKET STREET
SAN FRANCISCO, CA 94105

PAUL A. SZYMANSKI, ATTORNEY AT LAW
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET
SAN DIEGO, CA 92101

MELISSA W. KASNITZ, ATTORNEY AT LAW
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, THIRD FLOOR
BERKELEY, CA 94704-1204

ROGER HELLER, ATTORNEY AT LAW
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, THIRD FLOOR
BERKELEY, CA 94704-1204

ERINN R.W. PUTZI
THE STRANGE LAW FIRM, PC
282 SECOND STREET, SUITE 201
SAN FRANCISCO, CA 94105

JOHN DUTCHER, VICE PRESIDENT -
REGULATORY AFFAIRS
MOUNTAIN UTILITIES
3210 CORTE VALENCIA
FAIRFIELD, CA 94534-7875

REGINA COSTA, RESEARCH DIRECTOR
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

ROBERT J. DIPRIMIO
VALENCIA WATER COMPANY
24631 AVENUE ROCKEFELLER
VALENCIA, CA 91355

REX KNOWLES, REGIONAL VICE PRESIDENT
XO COMMUNICATIONS SERVICES, INC.
111 EAST BROADWAY, SUITE 1000
SALT LAKE CITY, UT 84111

RICHARD FISH
CALIF PUBLIC UTILITIES COMMISSION
LICENSING TARIFFS, RURAL CARRIERS
& COST SUPPORT BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

RICHARD H. LEVIN, ATTORNEY AT LAW
6741 SEBASTOPOL AVE STE 230
SEBASTOPOL, CA 95472-3838

ROBERT M. POCTA
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE
& NATURAL GAS BRANCH
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROBBIE RALPH, DIRECTOR, ECONOMIC
REGULATION & TARIFF
SHELL CALIFORNIA PIPELINE COMPANY
LLC
PO BOX 2648
HOUSTON, TX 77252-2648

ROBERT GNAIZDA, POLICY
DIRECTOR/GENERAL COUNSEL
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVENUE, SECOND FLOOR
BERKELEY, CA 94704

ROBIN BLACKWOOD, ATTORNEY AT LAW
VERIZON
600 HIDDEN RIDGE, HQE 03H29
IRVING, TX 75038

RICHARD SMITH
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE
LAW JUDGES
ROOM 5019
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

REED V. SCHMIDT, VICE PRESIDENT
BARTLE WELLS ASSOCIATES
1889 ALCATRAZ AVENUE
BERKELEY, CA 94703

ROLAND S. TANNER
SOUTHERN CALIFORNIA WATER COMPANY
PO BOX 9016
SAN DIMAS, CA 91773

RUDOLPH M. REYES, ATTORNEY AT LAW
VERIZON
711 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CA 94102

SHELLEY BERGUM
DEAF & DISABLED
TELECOMMUNICATIONS PROGRAM
505 14TH STREET, SUITE 400
OAKLAND, CA 94612-3532

SCOTT CRATTY
MURRAY & CRATTY, LLC
725 VICHY HILLS DRIVE
UKIAH, CA 95482

SIMIN LITKOUHI
CALIF PUBLIC UTILITIES COMMISSION
POLICY & DECISION ANALYSIS BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SUE WONG
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT &
IMPLEMENTATION BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

STEPHEN H. KUKTA, COUNSEL
SPRINT NEXTEL
201 MISSION STREET, STE. 1400
SAN FRANCISCO, CA 94105

SUZANNE TOLLER, ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

TIMOTHY S. GUSTER, GENERAL COUNSEL
GREAT OAKS WATER COMPANY
PO BOX 23490
SAN JOSE, CA 95153

THOMAS SELHORST
AT&T CALIFORNIA
525 MARKET STREET, RM. 2023
SAN FRANCISCO, CA 94105

THOMAS J. MACBRIDE, JR.
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI
DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

SHEILA HARRIS, MANAGER, GOVERNMENT
AFFAIRS
INTEGRA TELECOM HOLDINGS, INC.
1201 NE LLOYD BLVD., STE. 500
PORTLAND, OR 97232

CECIL O. SIMPSON, JR.
US ARMY LEGAL SERVICES AGENCY
901 NORTH STUART STREET, SUITE 713
ARLINGTON, VA 22203-1837

STEVE LAFOND
PUBLIC UTILITIES DEPARTMENT
CITY OF RIVERSIDE
2911 ADAMS STREET
RIVERSIDE, CA 92504

STEPHEN B. BOWEN, ATTORNEY AT LAW
BOWEN LAW GROUP
235 MONTGOMERY STREET, SUITE 920
SAN FRANCISCO, CA 94104

THOMAS A. DOUB
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL
GAS BRANCH
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

THALIA N.C. GONZALEZ, LEGAL COUNSEL
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVE., 2ND FLOOR
BERKELEY, CA 94704

TIMOTHY J. SULLIVAN
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5212
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

TOM ECKHART
CAL - UCONS, INC.
10612 NE 46TH STREET
KIRKLAND, WA 98033

SHEILA DEY
WESTERN MANUFACTURED HOUSING
COMMUNITIES
455 CAPITOL MALL STE 800
SACRAMENTO, CA 95814

SINDY J. YUN
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4300
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SARAH E. LEEPER
STEEFEL LEVITT & WEISS PC
1 EMBARCADERO CENTER 29TH FLOOR
SAN FRANCISCO, CA 94111

PAUL P. STRANGE, ATTORNEY AT LAW
THE STRANGE LAW FIRM
282 SECOND STREET, SUITE 201
SAN FRANCISCO, CA 94105

TERRANCE A. SPANN
U. S. ARMY LEGAL SERVICES AGENCY
REGULATORY LAW OFFICE JALS-RL
901 N. STUART STREET, SUITE 700
ARLINGTON, VA 22203

THOMAS J. LONG, ATTORNEY AT LAW
OFFICE OF THE CITY ATTORNEY
CITY HALL, ROOM 234
SAN FRANCISCO, CA 94102

TERRY L. MURRAY
MURRAY & CRATTY
8627 THORS BAY ROAD
EL CERRITO, CA 94530

TREG TREMONT, ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

VALERIE J. ONTIVEROZ
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510

VINCE VASQUEZ, SENIOR FELLOW,
TECHNOLOGY STUDIES
PACIFIC RESEARCH INSTITUTE
755 SANSOME STREET, SUITE 450
SAN FRANCISCO, CA 94111

WILLIAM JOHNSTON
CALIF PUBLIC UTILITIES COMMISSION
POLICY & DECISION ANALYSIS BRANCH
AREA 3-F
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

WILLIAM H. WEBER, ATTORNEY AT LAW
CBeyond COMMUNICATIONS
320 INTERSTATE NORTH PARKWAY
ATLANTA, GA 30339

LOU FILIPOVICH
15376 LAVERNE DRIVE
SAN LEANDRO, CA 94579

ROBERT A. SMITHMIDFORD
VICE PRESIDENT
BANK OF AMERICA
8011 VILLA PARK DRIVE
RICHMOND, VA 23228-2332

HUGH COWART
BANK OF AMERICA TECHNOLOGY
& OPERATIONS
FL9-400-01-10
9000 SOUTHSIDE BLVD
BUILDING 400 1ST FL
JACKSONVILLE, FL 32256

RICHARD M. HAIRSTON
R.M. HAIRSTON COMPANY
1112 LA GRANDE AVENUE
NAPA, CA 94558-2168

DOROTHY CONNELLY, DIRECTOR,
GOVERNMENT RELATIONS
AIRTOUCH COMMUNICATIONS, INC.
2999 OAK RD 5
WALNUT CREEK, CA 94597-2066

RICHARD J. BALOCCO, PRESIDENT
CALIFORNIA WATER ASSOCIATION
374 W. SANTA CLARA STREET
SAN JOSE, CA 95196